

REQUEST FOR EARLY EFFECTIVE DATE

Amendments to the California Ethylene Oxide Airborne Toxic Control Measure

Pursuant to Government Code section 11343.4(d), the Air Resources Board (ARB) requests that the amendments to sections 93108 and 94143, title 17, California Code of Regulations (CCR), become effective upon filing with the Secretary of State. We also request that section 93108.5 adopted by the Board on May 21, 1998, become effective upon filing with the Secretary of State. Good cause for this request exists as follows.

The amendments to the Airborne Toxic Control Measure (ATCM) for Emissions of Ethylene Oxide from Sterilizers and Aerators (EtO ATCM) reflect current implementation practices for the EtO ATCM and address differences between the EtO ATCM and the National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations (EtO NESHAP) promulgated by the federal Environmental Protection Agency (U. S. EPA).

The ATCM was amended primarily for two reasons. First, in implementing the measure we identified several issues that necessitated amending. Second, in December 1994, the U.S. EPA promulgated an EtO NESHAP for commercial sterilizers and fumigators which sets emission limits and other requirements for some of the facilities subject to the EtO ATCM and related air pollution control district rules. This EtO NESHAP requires facilities to be in compliance beginning December 6, 1998. On November 18, 1998, the U. S. EPA suspended enforcement of certain control requirements in the ETO NESHAP until December 6, 1999. The suspension will affect about five percent of the ethylene oxide emissions from these sources.

The EtO NESHAP differs significantly from the original state adopted EtO ATCM. It applies to a small subset of the sources affected by the EtO ATCM (commercial facilities using more than one ton annually), and its emission control requirements are less stringent than the applicable requirements of the EtO ATCM. However, the EtO NESHAP contains more detailed and prescriptive monitoring, recordkeeping, and reporting requirements than the EtO ATCM. These criteria were incorporated into the EtO ATCM at the May 21 hearing. After OAL approval, we will submit an application to the U. S. EPA for approval to replace the NESHAP with the EtO ATCM in California.

The ARB is currently engaged in extensive outreach to the facilities that are affected by both the State and federal regulations. An early effective date will reduce the burden and cost and facilitate the compliance of these facilities with both regulations by presenting them with one single regulation. The ARB will promptly notify all facilities affected by the amendments to the EtO ATCM of the effective date as soon as the amendments are filed with the Secretary of State.

Date: _____